



This is a digital copy of a book that was preserved for generations on library shelves before it was carefully scanned by Google as part of a project to make the world's books discoverable online.

It has survived long enough for the copyright to expire and the book to enter the public domain. A public domain book is one that was never subject to copyright or whose legal copyright term has expired. Whether a book is in the public domain may vary country to country. Public domain books are our gateways to the past, representing a wealth of history, culture and knowledge that's often difficult to discover.

Marks, notations and other marginalia present in the original volume will appear in this file - a reminder of this book's long journey from the publisher to a library and finally to you.

Usage guidelines

Google is proud to partner with libraries to digitize public domain materials and make them widely accessible. Public domain books belong to the public and we are merely their custodians. Nevertheless, this work is expensive, so in order to keep providing this resource, we have taken steps to prevent abuse by commercial parties, including placing technical restrictions on automated querying.

We also ask that you:

- + *Make non-commercial use of the files* We designed Google Book Search for use by individuals, and we request that you use these files for personal, non-commercial purposes.
- + *Refrain from automated querying* Do not send automated queries of any sort to Google's system: If you are conducting research on machine translation, optical character recognition or other areas where access to a large amount of text is helpful, please contact us. We encourage the use of public domain materials for these purposes and may be able to help.
- + *Maintain attribution* The Google "watermark" you see on each file is essential for informing people about this project and helping them find additional materials through Google Book Search. Please do not remove it.
- + *Keep it legal* Whatever your use, remember that you are responsible for ensuring that what you are doing is legal. Do not assume that just because we believe a book is in the public domain for users in the United States, that the work is also in the public domain for users in other countries. Whether a book is still in copyright varies from country to country, and we can't offer guidance on whether any specific use of any specific book is allowed. Please do not assume that a book's appearance in Google Book Search means it can be used in any manner anywhere in the world. Copyright infringement liability can be quite severe.

About Google Book Search

Google's mission is to organize the world's information and to make it universally accessible and useful. Google Book Search helps readers discover the world's books while helping authors and publishers reach new audiences. You can search through the full text of this book on the web at <http://books.google.com/>

Johnson - Speech - 1848

5119
70

US 5119.70



Harvard College Library

FROM

How. J. L. Polfrey

SPEECH

OF

REVERDY JOHNSON, OF MARYLAND,

ON THE

PROPOSED COMPROMISE BILL.

DELIVERED IN THE SENATE OF THE UNITED STATES, JULY 17, 1848.

WASHINGTON :

PRINTED BY JOHN T. TOWERS.

1848.

us 5119.70
✓

HARVARD COLLEGE LIBRARY

10th July 13
Gift of Henry G. Peabody, all 6,
of Cambridge

SPEECH

OF

REVERDY JOHNSON, OF MARYLAND,

ON THE

PROPOSED COMPROMISE BILL.

The Senate having under consideration the bill to establish the Territorial Governments of Oregon, New Mexico, and California, Mr. JOHNSON said :

MR. PRESIDENT : If the amendment which I proposed, before the Senate adjourned yesterday, to make to two of the sections of this bill be adopted, it will be found equally necessary to amend two other sections. The first twenty sections of the bill refer altogether to the territory of Oregon, and from the twenty-first to the forty-second it refers exclusively to California. The remaining part of the bill applies to the Territory of New Mexico. The amendment which I suggested yesterday, was intended to apply to the twenty-fifth and twenty-sixth sections of the bill, and of course it applied only to that part of the bill which relates to California. The reason which induced me to offer this amendment induces me now to give notice, that I shall, before I sit down, propose to amend in the same way, the thirty-first section of the bill. It is very possible, sir, that the phraseology of the amendment may be objectionable to some of the friends of the bill. I was inclined to think that there would be some objection to it, and I have prepared an amendment, therefore, that will accomplish the same purpose in a different form, and get clear of the objection. The amendment as now proposed gives to the Supreme Court of the United States authority to hold jurisdiction in all questions relative to slave property, which may be decided in the courts below without reference to the value of that property. I had intended to propose, and perhaps I may hereafter propose this as a substitute for my original amendment. It will be found, I think, to effect the same object ; if not, I will adhere to the first amendment. I cannot agree to give the bill my support, unless I am satisfied that the question can be brought before the Supreme Court for decision.

Now, sir, availing myself of the kind indulgence of the Senate in adjourning last evening, in order to give me an opportunity of being heard upon the bill, I propose to begin by inquiring what the bill is, assuming as I shall do, for the purpose of the inquiry, that it does provide for an appeal to the Supreme Court effectually. The first twenty sections relate exclusively to the Territory of Oregon and its inhabitants, the succeeding
Towers, printer, Washington.

seven sections relate exclusively to the Territory of California and its inhabitants, the remaining portion of the bill refers with equal exclusiveness to the Territory of New Mexico and its inhabitants. There is now, as we are aware, an organized government in the Territory of Oregon, composed of citizens of the United States who have become residents of that country already under the protection of the Constitution of the United States. They have a Legislative Assembly, and that Legislative Assembly has exercised legislative power, and, so far as was deemed necessary and within the authority which they possessed, they have performed all the functions of government. No such state of things exists in either of the other Territories. There are very few citizens of the United States in California; there are none worth mentioning, if there be any, in the Territory of New Mexico. The population in both these Territories is completely alien to the United States. They have but recently come among us, and that by force and effect of a treaty made without their individual or collective assent except so far as that assent is to be implied from the act of the Government of Mexico, of which they constituted a part. They are strangers to our institutions, composed of almost every variety of population, and not now in a condition personally, if they were within the limits of the older States, to exercise any of the rights of sovereignty. With reference to these classes of population which we have incorporated into our Union, we propose to govern them exclusively, for a time, in the same mode in which the Northwestern Territory was originally governed. What that mode was is familiar to every Senator. We place the executive power of the Government in a Governor and Council, the legislative power in the same body, the judiciary power in a judiciary to be appointed under the provisions of this act. So far as the legislative power of the Government of these two Territories is concerned, it will be seen that they are competent to pass all laws upon all subjects fit for legislation under the Constitution of the United States; all laws that any legislative body within the United States can pass, with five exceptions. Four of those exceptions it is unnecessary now to particularise; the fifth is the one which is material to this debate. They are not at liberty, as the bill I have no doubt was intended to say, and would say, perhaps, if it were to pass in its present shape, (and its friends, I have no doubt will agree to the amendment which I offered yesterday, to render it in that respect more specific,) they are not at liberty, by any legislation of their own, to establish or prohibit slavery. With this exception, and with four others which are not material now to be inquired into, because they have nothing to do with the question before the Senate, the whole legislative power of the Government, subject only to such restrictions as the Constitution imposes upon State Governments, is to be found in this Territorial Government, with this qualification applicable to all their legislation—that whatever laws they shall pass, following in that respect the Ordinance of 1787, are to be reported to the Congress of the United States, and to be void if the Congress of the United States disapproves them—not that they are to be valid if the Congress approves—but, beginning in validity, so to speak, to continue, to remain valid until the subsequent contingency happens, that the Congress of the United States, by some legislative act of its

own, disapproves of the particular law which this local legislature may have adopted. So much for its legislative power. The judiciary power which is vested in its territorial courts, is a power co-extensive with that which is now possessed by the Circuit Courts of the United States; indeed, more than co-extensive, because they are clothed with both equitable and common law jurisdiction, the Circuit Courts of the United States having no common law, as such, until it shall have been recognized by act of Congress. The jurisdiction with which the territorial courts are clothed, is a jurisdiction, in addition to this, over all cases that necessarily arise at common law, and which are not prohibited by the Constitution of the United States. The judicial power, then, is co extensive with every possible emergency that can arise. The writ of *habeas corpus*, which the Hon. Senator from Ohio, (Mr. CORWIN,) proposes to give to the courts expressly, being a common law writ, the power to issue it will be in the local tribunal, according to the terms of this very bill. Now, sir, such is the judicial power which is conferred, and such the legislative power. It was asked by the Senator from Maine, (Mr. HAMLIN,) a few days ago, and since by the Senator from Connecticut, (Mr. BALDWIN,)—and the amendment offered by him, upon which the Senate has acted, was offered with a view to test the sense of the Senate in that respect—it has been asked, why it is that these three Territories were included in one bill? The reason is very obvious, sir. There was one subject about which there was a radical difference of opinion, applicable to each one of these Territories. That subject was, as to the existence of the power, on the part of Congress, of prohibiting the introduction of slavery into the Territories, and if the power existed, the expediency of asserting it.

As a question of power it was as common to the Oregon Territory as to California or New Mexico, and the object that the Senate had in view in sending the matter to the special Committee, which was constituted for the very purpose of enabling us to get out of the difficulty growing out of this radical difference of opinion between Senators on the subject, was to adopt some plan by which it would be peacefully avoided. To accomplish any such plan it was necessary that the subject should be embraced in one bill, for the South could not be expected to gratify the North by yielding to them on the question relating to Oregon, and then afterwards to leave it in the power of the North to control it in regard to California and New Mexico. It would have been unreasonable in Senators of the free States to have demanded it; it would have been folly in Senators who differ with them to have granted it. There was on both sides of the Chamber—and notwithstanding the excitement that now prevails, I believe there is throughout the country, or will be before long—a sincere desire that this agitating question shall be settled peacefully if possible. The country is not now for the first time involved in it—our institutions have once before been threatened with destruction by it. There was not a man in any part of the Union who, when the subject was before agitating the community, did not tremble for the safety of our constitutional form of Government. There is no man in the country now, who deserves to live in it, who must not feel a deep solicitude to bring about an amicable adjustment. There

may be spirits among us who prefer the agitation to the calm—the commotion and horrors of disunion to the peace and quietness, and happiness, and glory of the Union, and who, acting upon that preference, will do all that they can to keep up the agitation. But there is no quiet and honest citizen, who does not fear, there is no peaceful and patriotic heart that does not beat with anxious throbbings, lest this Government may be destroyed by a failure to bring about a quiet and amicable settlement of this controversy. This subject then was sent to the Committee in order to accomplish that end, and believing that it might be accomplished by means of this bill, they very properly incorporated the provisions for the government of each of the Territories in one bill, that all might share one common fate. Oregon will be enjoyed by the free States if they think they can only enjoy territory of the United States if slavery be prohibited within its limits. The other Territories will be left open, if the Constitution does leave them open, to the citizens of the slaveholding States. If a stranger were in our midst and was informed that there were already three millions of slaves among us, brought here without any fault of ours, who it would not be safe for the slave States to manumit, to say nothing of the pecuniary loss—who would be a source of evil to the free States if manumitted—if by their legislation they did not exclude them from entering within their limits—if he was told that the question in controversy between these several States, owning a common origin, having a common ancestry, embarked in a common cause of constitutional freedom, the light now of the civilized world in every portion of it where freedom has a votary—if he was told that the question which was now agitating the Senate, the representatives of these States, upon which, in the judgment of Senators, the safety and honor of the Union was staked, her glory or her shame was hanging, was whether each and all were willing to stand upon the Constitution, he would be unable to believe it possible that there could be any real hesitation in at once coming to a common conclusion. And yet, sir, that is the question. It is that as this bill stands, and it is that alone, and the country will be made to see that it is for that, and that alone, that fanatics and ambitious aspirants seek to keep up the agitation of the question for the gratification of their own fiendish purposes. Is not that the question, Mr. President? What say the Senators from fifteen of the States of this Union? What says the Senator from one of the other States of the Union, (Mr. PHELPS,) whose opinions on this subject are as strong, as decided, and as well considered as they are honest? The bill provides that this question shall be tested and decided by the Constitution, and by the tribunals organized under the Constitution for the decision of all such questions.

Mr. President, it was no suggestion of mine, in fact when the measure came from the Committee, or when I was advised it was likely to come, as the best of all possible modes for preserving the peace of the country and maintaining all our rights, I had made up my mind, indeed I had on my table a copy of the very amendment which has been offered by the Senator from Indiana, (Mr. BRIGHT,) and was about to offer it when it was proposed by that honorable Senator, that the Missouri compromise alone could settle the dispute at last. I did hope, that even if the effect of that line was

to divide these territories into equal moities, it would gladly have been accepted by honorable Senators who differ with us upon this question. I did hope that those who are out of this chamber would have gladly availed themselves of it, and have appealed to the Congress of the United States, if they could, to quiet the controversy in that mode. But, sir, no sooner did the Senator from Indiana propose such amendment, although he came from a free State, when we were advised by these agitators of the hour that the moment it was adopted the cry of repeal would be heard throughout the land, and that the question would still remain agitating us to the very foundation of the Government. But, sir, when it is remembered that the South were willing to adopt—most of them at least, if not all—that geographical line, trusting that it would succeed now as it had done before in restoring peace and harmony, were not only proposing a line which would not divide these Territories into moities, (a division in itself but just and right, looking to the relative interest and relative power of the several States,) but a line which would give to the free States territory over which slavery was at no time to exist, equal to one million six hundred thousand square miles, while it only gave to the Southern States territory equal to two hundred and twenty thousand square miles, the unreasonableness of Northern hostility to it is most apparent. The Senator from Maine, (Mr. HAMLIN,) the other day said, that the compromise that he was willing to make was the compromise which the Constitution made, and that was that he would agree not to interfere with slavery in the States.

Mr. President, it would be a very perilous undertaking for the Senator, or his constituents, to attempt such an interference. The Senators from New Jersey, Connecticut, and Ohio, the only three other Senators from the free States who have spoken on the subject, have told us that they must have slavery prohibited by express provision in the whole of these Territories, and that nothing less would satisfy them. And I beg to repeat, for I want the fact to go out to the public just as it is, that the territory is not proposed to be ceded back—that is not thought of by any of the Senators; the territory is not proposed to be left as it is without a Government, that is not suggested by either of the Senators, but the single proposition upon which they stand, and upon which, if we are to judge from their manner and language, they mean to stand to the very death, is their right to insult the South.

Mr. BALDWIN.—We disclaim any such intention.

Mr. JOHNSON.—The Senator by such disclaimer shows that upon such a subject he does not understand what an insult is. They claim, I repeat, the right to insult the South, with whom, if they were charitable they must believe there is as much honor, as much integrity, as much patriotism on this question, and on all others, as is to be found in the other States of the Union. They tell us that it is true, there are fifteen of you; but this is a question on which our minds are made up, independently of constitutional power, it is a mere matter of private resolve, and we mean not to insult you when we tell you, that you are now brought into a condition in which you must yield, or we must yield, or else we separate; and while the South proposes to yield to an extent hardly to have been anticipated,

they tell us we do not believe you are willing to separate, we think we have you in our power and we mean to keep you so, the necessities of your condition are such that you must stand, take the insult, and submit to the degradation—we will have our own way, and not yield an inch. There is but one mode left, and that is the mode which the Committee has recommended. If, gentlemen, you are honest—and I am not here to question it, you have no right to doubt our honesty—it is arrogance to call it in question. There is nothing about you, either in personal or moral qualities that makes you our superiors. We cannot claim that you should abandon an iota of the ground you have assumed, but if you will yield we will yield, and yield a great deal more than we ask you to yield. We yield for peace, but you will not yield at all. Sir, I was shocked. The Hon. Senator from Ohio (Mr. CORWIN) will pardon me for the expression, (I was not so much amazed when I heard it from the Senator from New Hampshire, (Mr. HALE,) for I was prepared in some degree to hear such sentiments from him,) but I was shocked to hear from the Senator from Ohio the remarks in which he indulged in relation to the Supreme Court of the United States—remarks, not assailing their honor in direct terms, but which if suffered to go to the world will have that effect—remarks calculated to bring that tribunal into disrespect—a tribunal within whose limits, thank God, party has never been permitted to enter, whose course has at all times been clear, and honest, and patriotic, receiving the respect and challenging the admiration of the whole Union. It is the first time in this Senate, or in any other body in which any man of character has ventured to assail it.

Mr. CORWIN.—I made no assault upon the Supreme Court. I would be glad if the Senator would state what remark of mine it is to which he refers.

Mr. JOHNSON.—The remark in substance was this: that he knew from what he saw of the proceedings of that tribunal, that those members of it coming from one end of the Union would be sure to decide one way, and those coming from another portion of the Union another way.

Mr. CORWIN.—I suppose it would be a matter of very little difference what I may say about the Supreme Court; I am unwilling, however, that the remarks of the Senator from Maryland, although I am sorry to interrupt him, should go out without what I did say going along with them. I stated that if we might judge from the diversity of opinion which prevailed in this Senate between those who are of the Northern portion of the Union, and those of the Southern, as to the diversity of opinion which will prevail in that Court, and I could see no reason why the opinions of Senators should not be as free from party bias, as the opinions of the Judges of the Supreme Court, we must conclude, that the opinion of this body upon a constitutional question would be as worthy of reliance as the opinion of the Supreme Court. I expressly disclaimed intending to convey any such meaning as the Senator from Maryland has attributed to me; I stated that I venerated that tribunal, and that it was invaluable in the administration of the law.

Mr. JOHNSON.—I am glad to hear the explanation of the Senator from Ohio. I rejoice to hear him admit that he admires this tribunal as a great

constitutional arbiter, vested with power, and having the capacity and integrity to decide upon all questions touching the integrity of the Union. What is the Senator's objection, then, to submitting this particular question to such a tribunal? We propose to leave this question, upon which we hold one opinion and he holds another, involving as it most clearly does the integrity of this Union, to the jurisdiction and decision of that very tribunal. And to this the Senator objects. Can we go further? There is only one mode left us—which I am almost ashamed to suggest, and I beg pardon of the Senators from those States in which slavery exists for suggesting it all—there is only one mode left, and that is, to surrender. Sir, need I say that that is out of the question. If we were capable of doing it, we dare not go home and look our constituents in the face. Sir, it is this, or it is nothing. This bill, as it now stands, is the only olive branch of which the matter is susceptible, the only alternative is an amicable decision by a high-minded and honorable and constitutional tribunal of a question of constitutional law upon which we are honestly differing, or base and abject submission. Sir, I am not to be considered as speaking as a slaveholder. I am not a slaveholder, and never expect to be—never would consent to be. The few that I had I manumitted long ago. I speak as an American citizen, feeling, as I trust in God I do, a proper sense of the honor of my country, seeking that alone, and despising all other things compared with it. Sir, I have heard it rumored among the friends of the leaders of the two great parties of the country, that the passage of this bill may injure their respective prospects of success. What care I for that? It is not necessary to say that I believe, and conscientiously believe, that the true interests of the country in our present condition, requires the election of the persons selected by the Whig party of the Union for the high offices of President and Vice President. But there are other things to be consulted than mere party triumph. The election of General Taylor, or his defeat, will for good or for evil, perhaps have been over before the consequences of the agitation of this question shall be felt. The direful results of this agitation, unless it is now quelled, no human heart can imagine, no human tongue depict. Sir, I have said before, and I repeat it now, that much as I object to the policy of gentlemen on the other side, I would infinitely prefer that the destinies of the country should be entrusted to their management from this time henceforward forever, than to suffer this question to go on to agitate the land, knowing as I think I know, that it must end in disunion. Sir, official place for me has nothing to recommend it, but as it enables me to assist in subserving the true interests of the country and preserving her institutions. . . And if I am capable of speaking the truth, I speak the truth when I say to you, that I would most cheerfully leave public life now and always, if I could be successful, to any extent, in bringing about an amicable and permanent adjustment of this controversy. What then is to be done? The proposition is, as there is no other mode of deciding it, to submit it to the Court which the Senator from Ohio admires, as a tribunal capable of doing what it has heretofore accomplished, settling amicably and properly all constitutional questions judically presented before it, and in every instance, heretofore, commanding the entire approbation of nine-tenths of the community. We propose to leave it to that tribunal.

Why, Mr. President, excitable as Southern men are supposed to be, I think they have furnished, by their conduct in this Chamber, evidence that their character, in that respect, has been misunderstood. Nine-tenths of those whom I address, of the Southern States, are themselves slaveholders, perhaps all of them. They have not a relative who is not a slaveholder, not an ancestor who has not been a slaveholder, and yet they sit silently by without expressing, however they may have felt indignation at the gross and insulting terms in which slaveholders have been spoken of. The Senator from New Hampshire (Mr. HALE) called them hucksterers in human flesh. The Senator from Ohio (Mr. CORWIN) told them, that this peculiar institution had its origin in blood, in rapine, and in robbery. He told them, that they perhaps might not be damned for it, but if they were not, it would be because God in his mercy would pardon them, because they knew not what they did.

Mr. CORWIN.—I have no recollection of uttering such a sentiment.

Mr. JOHNSON.—I should be very glad to believe I am in error, and that the Senator did not utter such a sentiment, but I am almost as glad to hear him express a doubt that he could have uttered it.

Mr. CORWIN.—I certainly do not recollect saying any such thing, and I do not believe that I ever did.

Mr. JOHNSON.—The Senator, I regret to say, is not correct in his recollections, if he supposes that he did not say it.

Mr. BERRIEN.—I should be most happy if the occasion might be availed of, to remove the impression made by that declaration. It fell upon my ear distinctly in these terms: "I do not believe that a slaveholder, because he is a slaveholder, will necessarily be damned, but if saved, he will be saved by his ignorance, he knows not what he does." Now, sir, I was at the time astounded at such an expression from the Senator from Ohio. I am perfectly willing to receive the declaration of the Senator now, in the fullest confidence that he is unconscious of having employed such language, and I would be most happy if the expression could be withdrawn from the discussion of the question, by the declaration of the Senator that he is unconscious of having uttered it, and that if it was uttered, as on my oath I am ready to testify it was, that it was without intention, and is therefore withdrawn.

Mr. CORWIN.—I confess I have been very much surprised within the last day or two at what appears to have been an endeavor to put words into my mouth. I know that I discussed the subject under some disadvantages; the Senate being weary of the protracted discussion, I passed rapidly from one topic to another, and in the course of the remarks I made I spoke of the slave trade. I am perfectly satisfied, that if any such remark was made by me, of which I have no recollection, it was in reference to those who carried on the slave trade.

Mr. JOHNSON.—I rejoice unfeignedly to hear the explanation of the Senator. I could not help feeling that the Senator from Ohio, although he had uttered the sentiment that I have referred to, must, upon reflection, agree that he had been grossly unjust towards his fellow-citizens. But I pass from this. I have not alluded to it in anything like anger, it has been

more in sorrow than in anger—I beg to correct myself—it has been altogether in sorrow.

Mr. President, the Senator from Ohio, and those who have taken the same side in the debate, have involved themselves, I think, in a very unfortunate dilemma, so far as relates to the particular fact, that they will not submit this question to the Supreme Court. I should like to know how they are to avoid it. If the Supreme Court is authorized to decide in all cases arising under the Constitution, the decision in this case need not be given to them, it cannot be taken away from them. What is the proposition of the Senator? To incorporate into this bill the provisions of the Ordinance of 1787, fashionably termed the Wilmot proviso. What is the doctrine of most of the Southern Senators? It is, and they are very sincere in maintaining it, that under the Constitution of the United States there is no authority in the Congress of the United States to incorporate any such provision into any law organizing a Territorial Government. If there is none, such a provision would be unconstitutional and void. Suppose, then, we put it into this bill, and a man from the South goes into the Territory with his slaves, must not the question come before the Supreme Court for decision? Who can doubt this. The slave petitions for his freedom, or the master is indicted for a supposed violation of the law to be found in such a provision, and the master in the one case defends his title to the negro under the Constitution, and in the other case defends himself against the indictment in the same way. The Court decides, that the provision of the Ordinance is valid, and that the negro is free. Has not the master the right to come to the Supreme Court? Undoubtedly. And suppose he comes there, what is the question to be argued? Precisely the same question which we propose by this bill to submit to the Court. But the Court below cannot finally decide the constitutional question, whether Congress has any authority to prohibit Southern men from going into the common territory of the United States with his slaves. Sir, I do not now stop to inquire, whether the question may not be a different one, but still the question will arise. Gentlemen need not flatter themselves that they are to escape from going into the Supreme Court, unless they have made up their minds so to organize these territories as to take from the citizens of the Southern States the right to bring up the question before that Court—the right to raise the inquiry as to the operation of the Constitution and laws of the United States. And who can suppose, that if such a prohibition was attempted, that the free States would not vote against it. Well, then, the question must stand or fall as the Supreme Court may decide. We propose to go before this common arbiter, selected by the Constitution for the very purpose of deciding such questions, from time to time, as they may arise. When the Senator from Ohio tells us, that the Senate of the United States are as competent to decide questions arising under the Constitution as the Judges of the Supreme Court, he closes his eyes to the whole history of our party conflicts. In one sense they may be as capable—as far as mere intellectual qualities are concerned—but looking at the motives that animate us, and often unconsciously, looking at the past history of the Government, do we not know that there is hardly a

question involved in the Constitution, about which statesmen and politicians have not differed, whilst the Supreme Court, when it has been brought before them, has not generally been unanimous. Sir, one case is sufficient to illustrate the whole. I will mention two, however—one of them, I can only mention conjecturally, but I have no doubt my conjecture is right; the other, as having occurred. The Senator from South Carolina, (Mr. CALHOUN,) and those who agree with him in his reading of the Constitution, are as sincere in their convictions that the Congress of the United States has no authority to afford protection to American industry by a tariff of duties as I am in the opposite opinion. Now, sir, I make bold to say, with due deference to that Senator, that if the question ever comes before the Supreme Court, they will be unanimous against the view taken by the honorable Senator. The Senator from South Carolina, too, whatever may have been his original opinion, if he ever held an opinion different from that which he now entertains upon the question, believes, and perhaps half, if not more, of the whole country believes, that Congress has no authority to charter a Bank. Politicians have differed, statesmen have differed, honestly differed, the community has differed, they differ yet upon this question, but when it was submitted to the Supreme Court, the opinion of that tribunal was unanimous in favor of the power. Sir, the Judges of that Court are not politicians. They look at both sides of every question. They are above the party biases of the day, they live in a different atmosphere, they are governed altogether by different motives. Sir, I want now to go with this question to that tribunal, standing above us, not in point of intellect, but in impartiality. If the Senator from Ohio were a member of that court, (and if he were he would be one of its brightest ornaments,) I would cheerfully trust the decision of this question to him—just as cheerfully as I would trust it to that tribunal as it is at present constituted. Mr. President, we differ and we differ honestly. We can come together only by having our differences settled amicably—we are to be friends and brothers, or we are to be aliens, and we may happen to be enemies if the difference is not settled. I would it were a case of individual difference; for I speak from my heart, if it were a case of individual difference, the mode of disposing of it that would at once suggest itself to me would be to call in the intervention of some third party. For God's sake, I implore the Senator from Ohio, let us, as men of honor and as Christians, pursue the same course in regard to this our sectional difference, that we may remain friends firm and true as ever; let us not rise in hostility against each other—above all, drive us not to bloodshed. I implore you to allow us the means of effecting an amicable adjustment. We are ready to surrender every thing but honor, do not ask us to surrender that. We are not to be told that it is not a matter that involves our honor. You might rather ask us to surrender our lives than our self-respect. Let us then go to this tribunal, admitted to be one which every one ought to admire and confide in; a tribunal constituted by our fathers for the very purpose of deciding such controversies. Sir, I am not to be taken from my course by the eloquent invectives of the Senator from Ohio. I am no advocate for slavery—I never have been an advocate for it—I should rejoice to see the institution at an end, and but for the agitation of this question in those States where

slavery does not exist, we should have been nearer that consummation than we are. The Senator from Ohio, who feels so strongly upon this subject, seems to suppose that he belongs to a State in which slavery does not exist in any form—in which the negro is as free as the white man. I have before me a law of the State of Ohio, passed in 1804, and another passed in 1807; they were a little more enlightened then I suppose, and I will read from the last mentioned act so as to give them the benefit of their last spasm of philanthropy.

[Mr. JOHNSON read extracts from those laws making it the duty of every free negro to give bond with security for his good behavior, and that he would not be an incumbrance to the State, and also disqualifying him from testifying as a witness in any case, civil or criminal, in which a white man is concerned.]

Now, how is Cuffee, to use a term of the Senator, to procure bonds that he will not be an incumbrance.

Mr. CORWIN.—That law was never enforced.

Mr. JOHNSON.—Never enforced! I thought you were a law-enforcing and law-abiding, as well as a law making people. I would ask the Senator from Ohio, whether, in his Gubernatorial term in that State, he ever recommended the repeal of that law.

Mr. CORWIN.—I will state for the information of the Senator, that I voted in the legislature for its repeal.

Mr. JOHNSON.—I must be pardoned for asking another question. What was the vote upon that proposition to repeal the law?

Mr. CORWIN.—I do not recollect.

Mr. JOHNSON.—Well, here is the Senator from New York, (Mr. DIX,) another champion of the colored race. I think he told us in a speech that he made in the course of this session, what we knew before, that it was proposed in New York to give these people the right of suffrage, and that it was rejected by an overwhelming vote. And, I venture to say, if the Senator had been there at the time he would have voted against the proposition. Do they vote in the State of Connecticut?

Mr. BALDWIN.—They do not.

Mr. JOHNSON.—Well, that is worse and worse. In New York they used to vote as the Senator tells me, but at the last Convention of the people in primary assembly, this right was taken away. My honorable friend, Mr. CLAYTON, the other day told us, that if an amendment to this bill then under consideration were adopted, we might have some black man a representative on this floor, and the Senator from Connecticut, (Mr. BALDWIN,) remarked that there was no constitutional prohibition against it. I would ask the Senator whether he would vote for a black man for the office of President.

Mr. BALDWIN.—I said he would be eligible.

Mr. JOHNSON.—I know you so said, but I suppose no one in his senses would vote for him for that office. Is a black man in Connecticut eligible to office?

Mr. BALDWIN.—He is not, nor is he entitled to vote.

Mr. JOHNSON.—It is a mere abstract question at present, whether a black man shall be President, but God knows what it may be hereafter. Some

of the men who are now starting for the Presidency, incline some of us to believe, that no one, be he black or white, is safe from that peril.

Mr. BALDWIN.—All men should be equal in their political rights.

Mr. JOHNSON.—They should be equal in their political rights, but they are not to enjoy equally those rights. That is the doctrine of your modern philanthropists. Well, now, in New Jersey I do not believe slavery there is abolished yet.

Mr. DAYTON.—Oh! yes it is, there is no doubt about it. About two years since there might have been some two hundred negroes in that State. We never granted them any political privileges.

Mr. JOHNSON.—Well, then, in New Jersey you only sinned a little. We are sinners on a large scale, but Connecticut and New Jersey did it in a smaller way. The Senator from Ohio told us the other day, that a negro could not get his case into the Supreme Court—that he could get no lawyer to bring his suit. Sir, it is a great mistake. I will inform the Senator that there is not a lawyer of any respectability at a Southern bar, who does not act at once voluntarily in behalf of the negro in such a case, without reward or hope of reward, except that which arises from the consciousness of discharging his duty. I need not inform him, for I presume he knows, that there is not a Southern judicial tribunal before which this question of freedom or slavery is brought for adjudication, that does not, in ninety-nine cases out of a hundred, award freedom where it is claimed. Cases are occurring from time to time in the Southern States, in which the most efficient members of the bar volunteer to vindicate the rights of parties to their freedom, and in all cases where they were entitled to freedom, it is secured to them. I say to the Senator from Ohio, that if this bill passes, and negroes are carried into these territories, they will find members of the bar at the South, if the North will not furnish them, who will maintain before the Supreme Court their right to freedom without the expectation of reward. We of the South would esteem it a libel upon the profession to suppose otherwise. The amendment which I proposed last night, gives the right of appeal upon such terms as to get clear of all objections which seem to me to be well founded, and the question can be brought up, and decided at the next term of the Court. The question in dispute is, whether a man may claim property in slaves in that territory, and the first case that is decided puts an end to the whole controversy. Mr. President, it is a subject that soars infinitely beyond the party contests of the hour. It is a question of national existence, of national renown, of national glory. When the politicians of the day shall have been buried and forgotten—when the conflicts of the period shall cease to have a hold even upon memory, as we may decide well or ill upon this momentous question, will be our claim, not only to the approbation of the people among whom we live, but of all who are to succeed them, and of all, whoever they may be, who love the noble, the glorious form of constitutional freedom under which we live.





3 2044 019 341 6

THE BORROWER WILL BE CHARGED
AN OVERDUE FEE IF THIS BOOK IS
NOT RETURNED TO THE LIBRARY ON
OR BEFORE THE LAST DATE STAMPED
BELOW. NON-RECEIPT OF OVERDUE
NOTICES DOES NOT EXEMPT THE
BORROWER FROM OVERDUE FEES.

Harvard College Widener Library
Cambridge, MA 02138 (617) 495-2413



